



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline

Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2210 Fax (617) 730-2248
Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA 070053

Petitioner, 1404-1406 Beacon Street, LLC, applied to the Building Department for a permit to establish and maintain a Veterinary Clinic for cats at 1404A Beacon Street. The application was denied and an appeal taken to this Board.

On August 30, 2007 the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed October 18, 2007 at 7:00 p.m. in the Hunneman Hall, Main Library, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published September 27 and October 4, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **1404-1406 BEACON STREET, LLC**
Location of Premises: **1404A BEACON ST BRKL**
Date of Hearing: **10/18/2007**
Time of Hearing: **07:00 p.m.**
Place of Hearing: **Main Library, Hunneman Hall, 2nd fl.**

A public hearing will be held for a special permit and/or variance from:

4.07, Table of Use Regulations; Use 20A; Special Permit Required.

Of the Zoning By-Law to establish and maintain a Veterinary Clinic for cats per plans at **1404A BEACON ST BRKL.**

Said Premise located in a **G-1.75** District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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Present at the hearing was Chair, Jesse Geller and Board Members Bailey Silbert and Larry Kaplan. The owner was represented at the hearing by Attorney Jeffery Allen of Seegel, Lipshutz and Wilchins, 20 William Street, Suite 130, Wellesley, MA 02481. Attorney Allen was accompanied by the owner of the proposed veterinary clinic Dr. Patricia V. Gallo.

Attorney Allen described the site as one in a series of first floor and garden level storefronts in a 4 story commercial/residential building located between Summit Avenue and Winchester Street in Coolidge Corner. A shared alleyway runs along the rear of the property. The building was constructed in 1890 and was designed by Shepley Rutan, & Coolidge. The neighborhood is characterized by mixed use commercial/residential buildings along Beacon Street, and multifamily residential properties to the north of the property. Attorney Allen described the case as the conversion of the space at 1404A Beacon Street as a veterinary clinic solely for the care of cats. He reminded the Board that such uses are not allowed anywhere in Brookline without a Special Permit. As a clinic for cats he said that there is none of the nuisance noise normally attributed to veterinary clinics for animals such as dogs. He introduced the applicant, Dr. Patricia V. Gallo the current owner of The Boston Cat Hospital of Kenmore Square. Attorney Allen said that the veterinary clinic would occupy an approximately 2,500 s.f. first floor storefront, and the applicant would reconfigure existing space within the building to create a front waiting and reception room, two (2) exam rooms, three (3) ward rooms, an x-ray room, laundry room, and surgical suite. All clinic activities will be inside the premises. The clinic has two entrances from the front of the building along Beacon Street and a rear exit to a 16' wide alleyway. He described the staff as two (2) full time doctors, one (1) part time doctor and approximately ten (10) additional part time employees that will be working at the business. Clients will be seen by appointment, and the business will operate for approximately 60 hours per week. The veterinary clinic will have a maximum capacity of 39 cats the maximum typically during the holidays only, with about 13-15 cats boarded overnight at

any one time. Cats will be kept at the clinic overnight, and there will be boarding available. Attorney Allen said that all biohazard waste, needles and syringes will be put in specialized containers stored inside the building, and will be picked up by a licensed medical waste management company when they are full. Waste from chemotherapy procedures will also be disposed of using specialized waste containers and deceased and euthanized cats will be placed in a freezer until removal by a local pet cemetery. Animal waste and kitty litter will be placed in plastic bags and disposed of in the dumpster in the alleyway at the rear of the building. Chemicals from the x-ray machine will be removed from the premises by a processor service company, and there will be a backflow preventor on the x-ray film processor to prevent backflow into the plumbing system.

The Chair asked whether anyone would like to speak in favor or in opposition to the proposal. The operator of Metro Cat Hospital located at 1630 Beacon Street asked about the sustainability of the neighborhood to support the existence of two clinics in such close proximity. Board member Larry Kaplan stated that the question was not within the purview of the Board of Appeals, that the Board was charged with determining the appropriateness of granting zoning relief authorizing use of the property.

Adam Serafin, Planner, described the relief required for the project.

Section 4.07 – Table of Use Regulations, Use #20A

An office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities, is allowed by special permit in G, O and I zoning districts. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal.

Mr. Serafin said that the Planning Board has no objection to this proposal to establish a veterinary clinic exclusively for cats at 1404A Beacon Street. The applicant has submitted

detailed information regarding mitigation techniques for noise, odors and waste disposal. The Board feels that as proposed, the use of this property as a veterinary clinic for cats will be harmonious with the surrounding neighborhood. Therefore, he said, the Planning Board recommends approval of this application for a special permit for the use of 1404A Beacon Street as a veterinary clinic for cats only, and approves the plans titled "Boston Cat Hospital – 1404 Beacon St., Brookline MA" by David R. McMahon of McMahon Architects, Inc, and dated July 3, 2007, subject to the following condition:

Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds

The Chair then called on Frank Hitchcock representing the Building Department. Mr. Hitchcock described the project for the Board. He said all the relief could be granted by Special Permit under Section 4.07, Table of Use Regulations, Use 20A. Mr. Hitchcock said that the Building Department has no objection to the proposal, no objection to the zoning relief that is required and no objection to the conditions recommended by the Planning Board.

The Chair then asked, in accordance with the requirements of the use, what studies by recognized experts shall have been submitted to insure that the use would be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. Attorney Allen replied that a letter was submitted to the Planning Department authored by the Business Manager for the clinic dated October 2, 2007. The Board then discussed

whether this would fulfill the requirements for relief. After discussion, it was decided that the applicant submit a letter from the Town Board of Health verifying that the practices outlined in the October 2 letter protects the neighborhood against noise, odor and improper waste disposal.

Attorney Allen spoke regarding the proposed condition recommended by the Planning Board. He suggested that the Planning Board reference to a specific set of construction plans may cause his client delay should they decide to change the location of the Bathroom for example. He said that his client was doing no work on the exterior of the building and intended to build-out approximately 2500 s.f. of the property. The Board stated that they had no jurisdiction regarding the interior layout of the clinic but stated that the Plan of Land, 1404-1406 Beacon Street, dated November 1, 2000 was to be a permanent part of the record and advised Attorney Allen that should his client acquire additional space in the future she would have to return to the Board.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant a Special Permit under Section 4.07, Use 20A of the Zoning Bylaw. The Board made the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Therefore, the board voted unanimously to grant the Special Permit relief with the following condition:

Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds

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REGISTRARS OF VOTERS

Unanimous Decision of
The Board of Appeals

Filing Date:

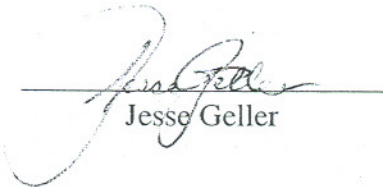
A True Copy:

ATTEST



Patrick J. Ward

Clerk, Board of Appeals


Jesse Geller